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In the Matter of	)	
	)	
<b>MUR 6024</b>	)	<b>CASE CLOSURE UNDER THE</b>
<b>WILLIAM RUSSELL FOR CONGRESS</b>	)	<b>ENFORCEMENT PRIORITY SYSTEM</b>
<b>AND SCOTT B. MACKENZIE, AS</b>	)	
<b>TREASURER</b>	)	

## GENERAL COUNSEL'S REPORT

**Under the Enforcement Priority System, matters that are low-rated**

are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

In this case, the complainant, Lawrence Stiles, alleges that William Russell for Congress ("Committee") and Scott B. Mackenzie, in his official capacity as treasurer ("Respondents"), received an in-kind contribution by using an apartment as a campaign headquarters and that the Committee failed to report the rental payments as contributions. The complainant, who is a former campaign volunteer, further alleges that the Committee failed to reimburse the candidate for expenditures that he made on behalf of the campaign, including expenditures connected to media and website production. Finally, the complaint includes additional allegations that the Committee (1) failed to disclose receipts or disbursements in connection with a fundraising event and contributions raised at the event; (2) failed to disclose receipts and disbursements in connection with its campaign website; (3) failed to properly display the required disclaimer on printed campaign materials and on its

1 campaign website; (4) failed to include the required "best efforts" statement in solicitations  
2 for contributions by mail; (5) failed to disclose and itemize at least 12 individual  
3 contributions; and (6) failed to notify the Commission of campaign depositories that it  
4 opened in November 2007.

5 In its response, the Committee denies the allegations that it failed to report the rental  
6 of an apartment as a campaign expense. Rather, the Committee claims that it did not make  
7 payments for that apartment, and consequently was not required to report these non-  
8 payments, because that apartment was the candidate's private residence and never used as a  
9 headquarters. Furthermore, the Committee claims that it has amended its reports to properly  
10 reflect reimbursements made to the candidate at the beginning of the campaign. Specifically,  
11 the Committee's original 2007 Year-End report reflected zero itemized expenditures, with  
12 net operating expenditures of \$60.92. The Committee amended its report twice in July of  
13 2008. The amended report now reflects several reimbursements to the candidate. The  
14 Committee claims that the central reason for not being able to file an accurate 2007 Year-End  
15 report was due to the fact that the complainant retained and or destroyed the Committee's  
16 records. Thus, the Committee had to reconstruct its records and file amended reports with  
17 the Commission.

18 The Committee acknowledges that the disclaimer for its solicitation was missing from  
19 the actual letter, but claims that it complied with the law because the response device  
20 contained the proper disclaimer. The Committee concedes that it failed to report the

1 expenses and receipts from a fundraiser, include the proper disclaimer on its website, and to  
2 report the required information regarding 12 individual contributions. Finally, the  
3 Committee admits to opening certain bank accounts in 2007, but not reporting them until  
4 July 2008.

5 It appears that the Committee has acknowledged several miscues in filing its reports  
6 and affixing appropriate disclaimers. The Committee, however, has attempted to resolve the  
7 reporting discrepancies by amending its reports and has taken steps to cure the disclaimer  
8 violations.

9 Accordingly, in light of the relatively low level of activity that appears to have been  
10 at issue in MUR 6024, and in furtherance of the Commission's priorities and resources,  
11 relative to other matters pending on the Enforcement docket, the Office of General Counsel  
12 believes that the Commission should exercise its prosecutorial discretion and dismiss this  
13 matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985). Additionally, this Office recommends  
14 that the Committee and its treasurer, in his official capacity, be cautioned that their conduct  
15 related to their failure to affix appropriate disclaimers could have violated the disclaimer  
16 requirements under 2 U.S.C. § 441d.<sup>1</sup>

#### 17 **RECOMMENDATION**

18 The Office of General Counsel recommends that the Commission dismiss  
19 MUR 6024, send a cautionary notification to William Russell for Congress and Scott B.  
20 Mackenzie, in his official capacity as treasurer, close the file, and approve the appropriate  
21 letters.

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<sup>1</sup> It appears that some of the records at issue may have been unavailable to the Committee at the time it was required to prepare and file its disclosure reports due to certain alleged conduct by the complainant; therefore, this Office is not recommending the Committee be admonished for its apparent reporting anomalies.

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3/6/09  
Date

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